

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, March 8, 2016, at Westfield City Hall. Members present included Ken Kingshill, Martin Raines, Bill Sanders, Dave Schmitz, and Robert Smith. Also present were Jesse Pohlman, Senior Planner; Pam Howard, Associate Planner and Brian Zaiger, City Attorney.

### **APPROVAL OF MINUTES**

Kingshill moved to approve the March 8, 2016, meeting minutes.

Raines seconded, and the motion passed 5-0.

Pohlman reviewed the Public Hearing Rules and Procedures.

### **ITEMS OF BUSINESS**

#### **1604-VS-05**

#### **[PUBLIC HEARING]**

#### **215 East Main Street** (Westfield Family Dental)

Premier Sign Group

The petitioner is requesting a Variance of Development Standard to reduce the Minimum Setback for an existing Monument Sign located in the LB-H: Local Business Historic District (Article 6.17(H)(4)).

Howard presented an overview of the requested variance, as summarized in the Department report.

Zach Akers, Premier Sign Group for the petitioner, gave a brief presentation.

Public Hearing opened at 7:04 p.m.

No public comments.

Public Hearing closed at 7:05 p.m.

Schmitz motioned to approve the Variance of Development Standard from Article 6.17(H)(4) of the Unified Development to reduce the monument sign's minimum setback requirement from the right-of-way from five (5) feet to two (2) feet.

Raines seconded and the Motion passed 5-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Sanders seconded and the Motion passed 5-0.

**1604-VS-06**

**[PUBLIC HEARING]**

**1821 East 151<sup>st</sup> Street (Circle K)**

**MAC's Convenience Stores LLC by Wellert Corporation**

The petitioner is requesting Variances of Development Standard to a previously granted Special Exception for a Gasoline Service Station related to Minimum Setback Lines (Article 4.23(F)), Screening of Receptacle and Loading Areas (Article 6.1), Architectural Standards (Article 6.3), Landscaping Standards (Article 6.8), and Outdoor Storage and Display (Article 6.12) in the SB-PD: Special Business/Planned Development District.

Howard presented an overview of the requested variances, as summarized in the Department report. Howard distributed a packet of updated materials following the Plan Commission's public hearing on the pending detailed development plan. In addition, the updated materials included the petitioner's request to withdraw the requested variance regarding architecture.

Robert Wellert, Wellert Corporation, gave a brief presentation and explained the need for the requested variances and unique site constraints with three street frontages.

Board discussion and Board inquiry of the Department regarding the compliance with the dumpster enclosure design and clarification of the requested variance for its orientation and location.

Public Hearing opened at 7:26 p.m.

No public comment.

Public Hearing closed at 7:27 p.m.

Kingshill motioned to approve the Variance of Development Standard from Article 4.23(F) of the Unified Development Ordinance to reduce the Minimum Front Yard Setback along US Highway 31 from sixty (60) feet to twenty-eight (28) feet and reduce the Rear Yard Setback from twenty (20) feet to ten (10) feet.

Schmitz seconded and the Motion passed 4-1 (Sanders).

Kingshill moved to adopt the Department's recommended findings of fact.

Raines seconded and the Motion passed 5-0.

Kingshill motioned to approve the Variance of Development Standard from Article 6.1(H)(2) and (5) of the Unified Development Ordinance to permit the accessory enclosure within an Established Front Yard and permit the enclosure's gates to be oriented towards a right-of-way.

Raines seconded and the Motion passed 5-0.

Kingshill moved to adopt the Department's recommended findings of fact.

Raines seconded and the Motion passed 5-0.

Kingshill motioned to approve the Variance of Development Standard from Article 6.8 of the Unified Development Ordinance to:

1. Reduce the Minimum Lot Landscaping Requirements (Article 6.8(K)) from fifteen (15) shade trees to seven (7) shade trees.
2. Reduce the External Street Frontage Landscaping Requirements (Article 6.8(M)) as follows: (a) reduce the number of Shade/Evergreen trees from eight (8) to two (2) along the Lot's US Highway 31 frontage; (b) reduce the number of Shade/Evergreen trees from seven (7) to two (2) along the Lot's 151st Street frontage; (c) reduce the number of Shade/Evergreen trees from eight (8) to one (1) along the Lot's Thatcher Lane frontage; and (d) reduce the number of Shrubs from sixty-three (63) to thirty-five (35) along the Lot's Thatcher Lane frontage.
3. Exempt the Lot from the Interior Parking Area Landscaping (Article 6.8(O)(1)) requirements.

Motion conditioned that landscaping shall be installed as shown on the presented landscape plan (attached as Exhibit 5 to the Department report).

Raines seconded and the Motion passed 5-0.

Kingshill moved to adopt the Department's recommended findings of fact.

Raines seconded and the Motion passed 5-0.

Kingshill motioned to approve the Variance of Development Standard to exempt the Lot from Article 6.12(C)(1)(b)(iii) and Article 6.12(C)(1)(c)(iii) of the Unified Development Ordinance to permit an outside storage area to be permitted in an Established Front Yard and not require a gate access into the outside storage area.

Motion condition that outdoor sales items shall not be visible from outside the enclosed display area.

Raines seconded and the Motion passed 5-0.

Kingshill moved to adopt the Department's recommended findings of fact.

Raines seconded and the Motion passed 5-0.

**1604-SE-01**

**[PUBLIC HEARING]**

**303 East 161<sup>st</sup> Street**

Noah Herron (Urban Farmer LLC)

The petitioner is requesting approval of a Special Exception to allow an Agritourism Use (vineyard and winery) within the AG-SF1: Agriculture / Single-Family Rural District (Chapter 13). Noah Herron (Urban Farmer LLC)

Pohlman noted the two petitions for the Special Exception and Variances of Development Standard will be presented together and recommended the Board hold one public hearing but motion separately for the Special Exception and each separate Variance of Development Standard.

Smith confirmed the Board will consider the petitions accordingly.

Pohlman presented a request on behalf of the petitioner for the Board to waive the Rules of Procedure regarding mailed public notice by certified mail for the petitions. Pohlman explained the mailed public notice complied with the applicable laws and Board's Rules of Procedure with the exception it was mailed certified mail without a return receipt requested.

Raines motioned to suspend the Board's Rules of Procedures and accept the public notice.

Kingshill seconded and the motion passed 5-0.

Pohlman presented an overview of the requested petitions, as summarized in the Department report. Pohlman distributed a packet of updated materials that included the petitioner's request to withdraw the requested variance regarding dumpster enclosures, a letter of support from the Spring Mill Station Task Group, and updated site plan and narrative from the petitioner.

Noah Herron, petitioner, gave a brief presentation.

Kingshill inquired about the vine heights at maturity and whether they would screen the building from 161<sup>st</sup> Street, and whether the parking surface request was cost or functionality related.

Herron responded the vines will grow to between and three and four feet and will be pruned, so the building would be visible from 161<sup>st</sup> Street. He also explained that the gravel surface was requested due to cost, the desire character of the Agritourism Use and to minimize impervious surface for the vines.

Smith expressed a concern with the dust from the gravel.

Herron explained that current design and materials results in layers of gravel with the top surface being a larger dust proof stone, so dust will not be an issue.

Sanders inquired if grapes would be imported and he expressed a concern with waste from the plants.

Herron explained they would be importing grapes/juice for the first three to four years during the

time it takes for the vines to become established and start producing. The waste from the grapes and vines will be utilized as a natural fertilizer.

Public Hearing opened at 7:50 p.m.

Reverend Dr. Marlene Redigo, 17172 Tilbury; Expressed a concern with the growing number of breweries in the community and its impact on the community.

Public Hearing closed at 7:52 p.m.

Kingshill motioned to approve the Special Exception 1604-SE-01 with the following conditions:

1. The Agritourism Use shall be developed and operated in substantial compliance to the Petitioner's narrative and site plan exhibit, as revised, subject to review and approval for compliance with applicable ordinances and laws of the development plan and appropriate permits. Any expansion or substantial alteration to the scope and operation of the Agritourism Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
2. The standards of Chapter 6 and Chapter 8 of the Unified Development Ordinance that are applicable to nonresidential uses and buildings in a Business District shall apply to the Agritourism Use, except as otherwise varied by an approved Variance of Development Standard (1604-VS-07) or waiver by the Plan Commission as part of a Detailed Development Plan approval.
3. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the approval of a development plan and/or issuance of a building permit for the property.

Raines seconded and the motion passed 5-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Raines seconded and the Motion passed 5-0.

**1603-VS-07**

**[PUBLIC HEARING]**

**303 East 161<sup>st</sup> Street**

Noah Herron (Urban Farmer LLC)

The petitioner is requesting Variances of Development Standard for the requested Agritourism Use related to Landscaping Standards (Article 6.8), Screening of Receptacle and Loading Areas (Article 6.1), Off-street Parking Surfacing and Curbs (Article 6.14) and Architectural Standards (Article 6.3) in the AG-SF1: Agriculture / Single-Family Rural District.

Kingshill motioned to approve the Variance of Development Standard to exempt the property from the following landscaping standards of the Unified Development Ordinance: Minimum Lot Landscaping Requirements (Article 6.8(K)); External Street Frontage Landscaping Requirements

(Article 6.8(M)); Buffer Yard Requirements (Article 6.8(N)); Interior Parking Area Landscaping (Article 6.8(O)(1)).

Sanders seconded and the Motion passed 5-0.

Raines moved to adopt the Department's recommended findings of fact for approval.

Sanders seconded and the Motion passed 5-0.

Raines motioned to approve the Variance of Development Standard to exempt the property from Article 6.14(G)(7) (Off-street Parking Surfacing and Curbs) of the Unified Development Ordinance, with the condition that approval shall be subject to the approval of a Detailed Development Plan that ensures that adequate surface design, parking space delineation, and maintenance is provided (e.g., for storm water management, traffic circulation and management, and emergency equipment access), as deemed appropriate by the City (e.g., Department of Public Works, Fire Department, Economic and Community Development Department) and County Surveyor's Office.

Sanders seconded and the Motion passed 5-0.

Raines moved to adopt the Department's recommended findings of fact for approval.

Sanders seconded and the Motion passed 5-0.

Board discussion regarding the petitioner's illustrative character exhibits of the presented buildings for the proposed use.

Petitioner explained the desire for an agricultural character with multiple color tones, window shutters and enhanced entryway for the public access.

Kingshill motioned to approve the petitioners request to exempt the property from Article 6.3 (Architectural Standards) of the Unified Development Ordinance with the condition that buildings on the property shall exceed or be substantially similar in quality and character to the Illustrative Character Exhibit (attached as Exhibit 5 to the Department report).

Raines seconded and the Motion passed 5-0.

Raines moved to adopt the Department's recommended findings of fact for approval.

Sanders seconded and the Motion passed 5-0.

**REPORTS/COMMENTS**

Plan Commission Liaison report by Schmitz.

Economic and Community Development Department, no report.

Schmitz motioned to adjourn the meeting.

Kingshill seconded, and the motion passed.

The meeting adjourned at 8:10 p.m.

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Chairperson  
Robert Smith, Esq.

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Secretary  
Matthew S. Skelton, Esq., AICP  
Director